



STATE OF NEW YORK

UNEMPLOYMENT INSURANCE APPEAL BOARD

PO Box 15126

Albany NY 12212-5126

DECISION OF THE BOARD

Mailed and Filed: FEBRUARY 07, 2023

IN THE MATTER OF:

Appeal Board No. 627401 A

PRESENT: MICHAEL T. GREASON, MEMBER

The claimant applied to the Appeal Board pursuant to Labor Law § 534 for a

reopening and reconsideration of Appeal Board Nos. 622069 D and 622070 D, filed May 31, 2022, which denied the claimant's application for a reopening and reconsideration and continued in effect the decisions in

Appeal Board Nos. 620398 and 620399, filed on January 28, 2022, that dismissed the claimant's appeal as untimely and continued in effect the decisions of the Administrative Law Judge, filed September 8, 2021, that sustained the initial determinations disqualifying the claimant from receiving benefits, effective January 30, 2020, on the basis that the claimant voluntarily separated from employment without good cause; charging the claimant with an overpayment of Federal Pandemic Unemployment Compensation of \$8,400.00 recoverable pursuant to Section 2104 (f)(2) of the Coronavirus Aid, Relief and Economic Security (CARES) Act of 2020; and charging the claimant with an overpayment of Pandemic Emergency Unemployment Compensation of \$1,176.00 recoverable pursuant to Section 2107 (e)(2) of the Coronavirus Aid, Relief and Economic Security (CARES) Act of 2020.

Upon consideration of the application to reopen, after due notice to the parties, the Board has decided to reopen and reconsider its decision.

Our review of the record reveals that the case should be remanded to hold a hearing. In the reopening request, the claimant produced a letter dated November 25, 2019, purportedly signed by Antionette Longo, indicating that "today is your last day" due to "absenteeism, lateness, and leaving work

early." The parties should be questioned further regarding the letter. The letter should be accepted into evidence in the usual manner.

Now, based on all of the foregoing, it is

ORDERED, that the decisions of the Appeal Board and the Administrative Law Judge be, and the same hereby is, rescinded; and it is further

ORDERED, that the case shall be, and the same hereby is, remanded to the Hearing Section to hold a hearing, upon due notice to all parties and their representatives; and it is further

ORDERED, that the employer should produce Antionette Longo; and it is further

ORDERED, that the hearing shall be conducted so that there has been an opportunity for the above action to be taken, and, so that at the end of the hearing, all parties will have had a full and fair opportunity to be heard; and it is further

ORDERED, that an Administrative Law Judge shall render new decisions, which shall be based on the entire record in this case, including the testimony and other evidence from the original and the remand hearings, and which shall contain appropriate findings of fact and conclusions of law.

MICHAEL T. GREASON, MEMBER